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## FISCAL IMPACT REPORT

SPONSOR Harden ORIGINAL DATE 2/4/08  
LAST UPDATED 2/7/08 HB \_\_\_\_\_  
SHORT TITLE Sale Of Recycled Metals Act SB 463/aSPAC  
ANALYST Wilson

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

|              | FY08 | FY09  | FY10  | 3 Year<br>Total Cost | Recurring<br>or Non-Rec | Fund<br>Affected |
|--------------|------|-------|-------|----------------------|-------------------------|------------------|
| <b>Total</b> |      | \$0.1 | \$0.1 |                      | Recurring               | General<br>Fund  |

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to SB 281, SB 381, and HB 497

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)

### SUMMARY

#### Synopsis of SPAC Amendment

The Senate Public Affairs amendment to SB 463 removes the appropriation. The amendment also adds stainless steel beer kegs to the definition of aluminum material.

#### Synopsis of Original Bill

Senate Bill 463 appropriates \$100,000 from the general fund to the Department of Public Safety (DPS) for expenditure in fiscal year 2009 to carry out the provisions of the Sale of Recycled Metals Act.

SB 463 enacts the Sale of Recycled Metals Act, to regulate the sale of recycled aluminum, bronze, copper or brass, and steel. The bill requires a secondhand metal dealer to prominently place a notice to sellers of regulated material that sufficient identification as required by state law must be presented, and stating the dealer's usual business hours.

The bill also requires the following:

- a seller of regulated material must provide specified information to a secondhand metal dealer;

- a secondhand metal dealer must keep a written record of specific purchases of regulated material made in the course of the dealer's business;
- a dealer must preserve each required record until the third anniversary of the date the record was made;
- a dealer must permit a peace officer to inspect required records and regulated material during the dealer's usual business hours.
- a dealer must file a required report with the DPS not later than the 7<sup>th</sup> business day after the date of the purchase or other acquisition of regulated material.

The bill permits a peace officer who has reasonable suspicion to believe that an item of regulated material in the possession of a dealer is stolen to place the item on hold by issuing a written, specific notice to the dealer. A dealer, upon receiving the notice, is prohibited from processing or removing from his or her premises the identified item before the eleventh day after the date the notice is issued unless the hold is released at an earlier time in writing by a peace officer or by a court order.

The bill sets out the following penalties:

- Knowing violation of the Act, first conviction is a petty misdemeanor
- Second or subsequent knowing violation of the Act within the thirty-six months preceding the offense is a misdemeanor

Upon conviction for a second or subsequent offense, a court may order that the dealer cease doing business as a dealer for a period not to exceed 30 days from the date of the order for each violation that forms the basis of the conviction.

The provisions of this bill do not apply to a purchase of regulated material from a manufacturing, industrial or other commercial vendor that sells regulated material in the ordinary course of the vendor's business.

## **FISCAL IMPLICATIONS**

The appropriation of \$100,000 contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2009 shall revert to the general fund.

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary will be proportional to the enforcement of this law and commenced prosecutions. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

## **SIGNIFICANT ISSUES**

This bill is in response to recent sales of stolen metals in New Mexico to auto wreckers and scrap metal processors. The value of scrap metal has recently skyrocketed. This bill addresses numerous incidents of stolen scrap metal that has been sold to scrap dealers and automotive wreckers

The Department of Public Safety (DPS) will oversee the requirements of the bill. The legislation requires individuals that sell scrap metal to verify their identification. Those people will be required to sign a written statement that they own the scrap and provide the make, model and license plate of the vehicle used to transport the scrap they are selling. The buyer must keep records of all transactions and forward that information to DPS following:

Tracking recycled metals is not the biggest priority of a law enforcement agency. DPS will welcome the chance to investigation on a case by case basis the theft of such metals, but the regulation of might be better suited to another agency.

## **ADMINISTRATIVE IMPLICATIONS**

DPS believes they might need one FTE on a recurring basis.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIPT ISSUES**

The AOC provided the following analysis:

- (1) SB 463 duplicates SB 381, except that SB 463 contains an appropriation and SB 381 does not.
- 2) Unlike SB 281 and HB 497, the definition of “regulated material” does not include steel material.
- 3) Unlike SB 281 and HB 497, Section 4.A. (1), a person attempting to sell regulated material may sign a statement that the person does not possess a personal ID document, in lieu of displaying such a document.
- 4) SB 463’s Section 5 record requirements are looser than those of SB 281 and HB 497, requiring records only for larger purchases of regulated material.
- 5) SB 463’s Section 8 notification requirements differ from those in SB 281 and HB 497. Time periods for notification in SB 463 vary depending upon the material purchased.
- 6) Section 9 contains provisions for placing items on hold. SB 281 and HB 497 do not contain such provisions.
- 7) Under SB 463, a first knowing violation of the Act is a petty misdemeanor; under SB 281 and HB 497, a misdemeanor. Under SB 463, a second or subsequent knowing violation is a misdemeanor; under SB 281 and HB 497, a fourth degree felony.

DW/bb